

FIRST REGULAR SESSION

# SENATE BILL NO. 492

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CROWELL.

Read 1st time February 12, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

2180S.011

## AN ACT

To repeal sections 105.660 and 105.665, RSMo, and to enact in lieu thereof six new sections relating to certain public employee retirement plans, with penalty provisions.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 105.660 and 105.665, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 105.660, 105.665, 105.666, 105.667, 105.684, and 321.800, to read as follows:

105.660. The following words and phrases as used in sections 105.660 to 105.685, unless a different meaning is plainly required by the context, shall mean:

(1) "Actuarial valuation", a mathematical process which determines plan financial condition and plan benefit cost;

(2) "Actuary", an actuary (I) who is a member of the American Academy of Actuaries or who is an enrolled actuary under the Employee Retirement Income Security Act of 1974 and (ii) who is experienced in retirement plan financing;

(3) "**Board**", the governing board or decision-making body of a plan that is authorized by law to administer the plan;

(4) "**Defined benefit plan**", a plan providing a definite benefit formula for calculating retirement benefit amounts;

(5) "**Defined contribution plan**", a plan in which the contributions are made to an individual retirement account for each employee;

(6) "**Funded ratio**", the ratio of the actuarial value of assets over its actuarial accrued liability;

**EXPLANATION**—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18           **(7) "Lump sum benefit plan", payment within one taxable year of**  
19 **the entire balance to the participant from a plan;**

20           **(8) "Plan",** any retirement system established by the state of Missouri or  
21 any political subdivision or instrumentality of the state for the purpose of  
22 providing plan benefits for elected or appointed public officials or employees of  
23 the state of Missouri or any political subdivision or instrumentality of the state;

24           **[(4)] (9) "Plan benefit",** the benefit amount payable from a plan together  
25 with any supplemental payments from public funds;

26           **[(5)] (10) "Substantial proposed change",** a proposed change in future  
27 plan benefits which would increase or decrease the total contribution percent by  
28 at least one-quarter of one percent of active employee payroll, or would increase  
29 or decrease a plan benefit by five percent or more, or would materially affect the  
30 actuarial soundness of the plan. In testing for such one-quarter of one percent  
31 of payroll contribution increase, the proposed change in plan benefits shall be  
32 added to all actual changes in plan benefits since the last date that an actuarial  
33 valuation was prepared.

105.665. 1. The legislative body or committee thereof which determines  
2 the amount and type of plan benefits to be paid shall, before taking final action  
3 on any substantial proposed change in plan benefits, cause to be prepared a  
4 statement regarding the cost of such change.

5           2. The cost statement shall be prepared by an actuary using the methods  
6 used in preparing the most recent periodic actuarial valuation for the plan and  
7 shall, without limitation by enumeration, include the following:

8           (1) The level normal cost of plan benefits currently in effect, which cost  
9 is expressed as a percent of active employee payroll;

10           (2) The contribution for unfunded accrued liabilities currently payable by  
11 the plan, which cost is expressed as a percent of active employee payroll and shall  
12 be over a period not to exceed **[forty] thirty** years;

13           (3) The total contribution rate expressed as a percent of active employees  
14 payroll, which contribution rate shall be the total of the normal cost percent plus  
15 the contribution percent for unfunded accrued liabilities;

16           (4) A statement as to whether the legislative body is currently paying the  
17 total contribution rate as defined in subdivision (3) of this subsection;

18           (5) The total contribution rate expressed as a percent of active employee  
19 payroll which would be sufficient to adequately fund the proposed change in  
20 benefits;

21 (6) A statement as to whether such additional contributions are mandated  
22 by the proposed change;

23 (7) A statement as to whether or not the proposed change would in any  
24 way impair the ability of the plan to meet the obligations thereof in effect at the  
25 time the proposal is made;

26 (8) All assumptions relied upon to evaluate the present financial condition  
27 of the plan and all assumptions relied upon to evaluate the impact of the  
28 proposed change upon the financial condition of the plan, which shall be those  
29 assumptions used in preparing the most recent periodic actuarial valuation for  
30 the plan, unless the nature of the proposed change is such that alternative  
31 assumptions are clearly warranted, and shall be made and stated with respect to  
32 at least the following:

33 (a) Investment return;

34 (b) Pay increase;

35 (c) Mortality of employees and officials, and other persons who may  
36 receive benefits under the plan;

37 (d) Withdrawal (turnover);

38 (e) Disability;

39 (f) Retirement ages;

40 (g) Change in active employee group size;

41 (9) The actuary shall certify that in the actuary's opinion the assumptions  
42 used for the valuation produce results which, in the aggregate, are reasonable;

43 (10) A description of the actuarial funding method used in preparing the  
44 valuation including a description of the method used and period applied in  
45 amortizing unfunded actuarial accrued liabilities;

46 (11) The increase in the total contribution amount required to adequately  
47 fund the proposed change in benefits, expressed in annual dollars as determined  
48 by multiplying the increase in total contribution rate by the active employee  
49 annual payroll used for this valuation.

**105.666. Each plan shall, in conjunction with its staff and  
2 advisors, establish a board member education program, which shall be  
3 in effect on or after January 1, 2008. The curriculum shall include, at  
4 a minimum, education in the areas of duties and responsibilities of  
5 board members as trustees, ethics, governance process and procedures,  
6 pension plan design and administration of benefits, investments  
7 including but not limited to the fiduciary duties as defined under**

8 section 105.688, legal liability and risks associated with the  
9 administration of a plan, sunshine law requirements under chapter 610,  
10 RSMo, actuarial principles and methods related to plan administration,  
11 and the role of staff and consultants in plan administration. Board  
12 members appointed or elected on a board on or after January 1, 2008,  
13 shall complete a board member education program designated to orient  
14 new board members in the areas described in this section within ninety  
15 days of becoming a new board member. Board members who have  
16 served one or more years shall attend at least two continuing education  
17 programs each year in the areas described in this section.

105.667. 1. Any appointing authority, board member, or  
2 employee shall be prohibited from receiving any gain or profit from  
3 any funds or transaction of the plan, except benefits from interest in  
4 investments common to all members of the plan, if entitled thereto.

5 2. Any appointing authority, board member, or employee  
6 accepting any political contribution, gratuity, or compensation for the  
7 purpose of influencing his or her action with respect to the investment  
8 of the funds of the system shall thereby forfeit his or her office and in  
9 addition thereto be subject to the penalties prescribed for bribery.

10 3. Any trustee, employee, or participant of a plan who pleads  
11 guilty to or is found guilty of a plan-related felony after August 28,  
12 2007, that is determined by a court of law to have been directly  
13 committed in connection with the member's duties as either a trustee,  
14 employee, or participant of a plan shall not be eligible to receive any  
15 retirement benefits from the respective plan.

105.684. 1. Notwithstanding any law to the contrary, no plan  
2 shall adopt or implement any additional benefit increase, supplement,  
3 enhancement, lump sum benefit payments to participants, or cost-of-  
4 living adjustment beyond current plan provisions in effect prior to  
5 August 28, 2007, unless the plan's actuary determines that the funded  
6 ratio prior to such adoption or implementation is at least eighty  
7 percent and will not be less than seventy-five percent after such  
8 adoption or implementation.

9 2. The unfunded actuarial accrued liabilities associated with  
10 benefit changes described in this section shall be amortized over a  
11 period not to exceed twenty years for purposes of determining the  
12 contributions associated with the adoption or implementation of any

13 such benefit increase, supplement, or enhancement.

14           3. Any plan with a funded ratio below sixty percent shall have  
15 the actuary prepare an accelerated contribution schedule based on a  
16 descending amortization period for inclusion in the actuarial valuation.

17           4. Nothing in this section shall apply to any plan established  
18 under chapter 70, RSMo, or chapter 476, RSMo.

          321.800. Notwithstanding any other law to the contrary, any  
2 board of directors established under the provisions of this chapter  
3 administering its own retirement or other benefits-related plan shall  
4 administer such plan by a separate five-member board of trustees  
5 which shall consist of the three-member board of directors and two  
6 salaried firefighters elected by the members of the plan.

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